IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO
WRIT PETITION NO : 25343 of 2000

Between:
M/s. Zee Star Dhaba, Rep. by its Partner, Sri Afzal Ahmmad Khan,
N.H.9, Zaheerabad, Medak District.

..... PETITIONER

AND

1 Transmission Corporation of Andhra Pradesh Limited, Rep. by its Managing Director, A.P.TRANSCO, Vidyut Soudha, Khairatabad, Hyderabad.
2 The Divisional Engineer, Assessments, A.P.Transco, 10-3-310/D, 2nd Floor, Humayun Nagar, Hyderabad.
3 The Assistant Divisional Engineer, Operation, A.P.Transco, APCPDC Limited, Zaheerabad, Medak District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the final assessment order No.DEE/HYD/DAH/13101/D.No.2072 dt. 16.12.1999 of the 2nd respondent and the action of the respondents in not restoring the power supply to the petitioner for non-payment of the amount demanded by the 2nd respondent under the above said final assessment order as highly illegal, arbitrary, unjust and contrary to the Principles of Natural Justice and Condition No.39 of the Terms and Conditions of Supply and consequently set aside the same.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: SMT.M.VINOBHA DEVI, Standing Counsel for A.P. Transco.

The Court made the following :

ORDER:

Heard Sri V.Nagarjuna Babu, the learned counsel appearing for the petitioner and Sri N.Subba Reddy, the learned senior counsel for Smt M.Vinobha Devi, standing counsel appearing for the respondents.

The petitioner herein, who is running a Dhaba, seeks to assail the impugned proceedings dated 16.12.1999 whereunder the petitioner was asked to pay Rs.1,47,623/- by way of an assessment in regard to certain irregularities, which have been found during the inspection conducted on 26.12.1998. The main grievance of the petitioner is that even though he has filed a letter dated 29.12.1998, followed by a legal notice on 28.01.1999 but the same were not considered and the impugned assessment has been made without any basis or without giving any reasons for rejecting the reasons as mentioned in his letter or even in the legal notice given by him.

Having heard the counsel on either side and on perusal of the material, it is seen that as against the impugned orders, the petitioner has got remedy of regular appeal to the Chief Engineer. Without availing the same, the petitioner has directly come to this Court by invoking Article 226 of the Constitution of India. This Court initially granted interim direction in W.P.M.P.No.32331 of 2000, dated 27.12.2000 directing restoration of power supply subject to condition that the petitioner deposits Rs.35,000/- and the petitioner has complied the said condition and got the power supply.

Having regard to the fact that the petitioner has got alternative and efficacious remedy of appeal, it is more desirable that the question as sought to be raised by the petitioner on various aspects including one as mentioned in the letter and also the notice issued by the learned counsel for the petitioner, can as well be considered and it is not proper to

entertain directly.

The writ petition is, accordingly, dismissed with liberty to the petitioner to approach the appellate authority within a period of four weeks from today and raise all such questions which can be considered and dispose of the same on merits in accordance with law. It is needless to mention that if the petitioner has not complied with the conditional order dated 27.12.2000 making deposit of Rs.35,000/-, the said appeal shall not be enquired into and entertained. It is further made clear in the event of making payment by the petitioner, the interim stay granted by this Court shall continue in operation till the disposal of the appeal. The appeal shall be disposed of within three months from the date of its filing.

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B. PRAKASH RAO, J

27th January 2005.
Chvn.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1 The Managing Director, Transmission Corporation of Andhra Pradesh Limited, A.P.TRANSCO, Vidyut Soudha, Khairatabad, Hyderabad.
2 The Divisional Engineer, Assessments, A.P.Transco, 10-3-310/D, 2nd Floor, Humayun Nagar, Hyderabad.
3 The Assistant Divisional Engineer, Operation, A.P.Transco,

APCPDC Limited, Zaheerabad,
Medak District.

4 Two C.D. copies.